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Letter dated 1 October 2012 from the Chair of the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities, presenting its position on the recommendations contained in the twelfth report of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004), which was submitted to the Committee in accordance with paragraph (a) of annex I to resolution 1989 (2011) (see annex to the present letter).

I should be grateful if the present letter and its annex could be brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Peter **Wittig**
Chair
Security Council Committee pursuant to
resolutions 1267 (1999) and 1989 (2011)
concerning Al-Qaida and associated
individuals and entities

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Annex

Recommendations contained in the twelfth report of the Analytical Support and Sanctions Monitoring Team: position of the Committee

I. Introduction

1. On 30 March 2012 the Analytical Support and Sanctions Monitoring Team (the "Monitoring Team") submitted its twelfth report to the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities ("the Committee").

2. Since December 2005, the Committee has established the practice of responding to each of the reports submitted to it by the Monitoring Team and bringing to the attention of the Security Council the Committee's position on the recommendations contained in the reports. After a thorough examination of the twelfth report of the Monitoring Team, the Committee would like to continue this practice and bring to the attention of the Council its position on the recommendations contained therein.

3. The present position paper aims to draw attention to those recommendations made by the Monitoring Team in its twelfth report that were the subject of particular focus in the Committee. The Committee welcomes the Monitoring Team's continued efforts to identify ways to improve the implementation and effectiveness of the sanctions measures concerning Al-Qaida and associated individuals and entities. It is of the opinion that all Member States should be made aware of the Monitoring Team's recommendations and the position of the Committee on those recommendations.

II. Mandate and scope of the sanctions regime

4. **On the Monitoring Team's recommendation to adopt a regional and risk-based approach:** The Committee wishes to emphasize its mandate as a global sanctions regime aimed at countering the threat posed by Al-Qaida and associated individuals and entities. The mandate of the Committee reflects a sustained and comprehensive approach, based on the active participation and collaboration of all Member States. In line with its mandate, the Committee, with the assistance of the Monitoring Team, would continue to monitor and assess the evolving threat of the Al-Qaida network in countries and regions worldwide.

5. Furthermore, the Committee remains committed to ensuring that the Al-Qaida Sanctions List is dynamic and responsive to the threat. It recognizes that the scope of the Monitoring Team's mandate is global and that its monitoring and assessment work should focus on all areas where the threat exists and where the Committee might consider focusing future designations. The Committee recalls that it is mandated to base its decisions related to listing and delisting on requests made by Member States. In this context, the Committee emphasizes that it remains the responsibility of all Member States to ensure that the List of targeted individuals and entities accurately reflects the evolving threat posed by Al-Qaida through the submission of listing and delisting requests in a timely manner. It also emphasizes the legal obligation of all States Members of the United Nations to implement the

global 1989 sanctions regime against listed individuals and entities. The Committee notes that there is no hierarchy among listed individuals and entities in terms of monitoring the implementation of the sanctions regime.

6. The Committee looks forward to periodic follow-up reporting and recommendations on the linkages between Al-Qaida and those individuals, groups, undertakings or entities eligible for designation under paragraph 1 of resolution 1988 (2011), as mandated in annex I (aa) to resolution 1989 (2011).

III. Strengthening the impact of the sanctions

7. **On increasing the visibility of the regime:** The Committee takes note of the recommendations in this regard so as to enhance its transparency and public awareness of its activities. It will continue to consider the proposals made by the Monitoring Team in this regard. In the context of the broader debate about enhancing cross-institutional coherence within the United Nations counter-terrorism architecture, the Committee notes the Secretary-General's proposal for the creation of a counter-terrorism coordinator.

8. The Committee notes that it is existing practice to agree to hold occasional meetings at which it discusses the sanctions regime in relation to a particular issue or listed group, as well as the overall strategy of the Committee, as appropriate. It also notes the existing practice to invite Member States to attend Committee meetings to discuss particular issues relevant to the activities of listed parties in a national or regional context.

9. **On impact assessment:** While the Committee considers that it might be helpful to conduct a meaningful and methodologically rigorous evaluation of the impact of sanctions, this cannot be a priority for the Monitoring Team given time and resource constraints.

IV. Implementation of the sanctions

10. **On non-implementation:** The Committee notes that reporting on possible cases of non-compliance as well as making recommendations for improving implementation is at the centre of the Monitoring Team's mandate, as described in paragraphs (i) and (j) of annex I to resolution 1989 (2011). The Committee looks forward to the assistance of the Monitoring Team with its analysis of non-compliance by collating information collected from Member States and submitting case studies, both on its own initiative and at the Committee's request, as well as by presenting recommendations, which could be used by Member States to assist them with the implementation of the sanctions. With regard to the need to strengthen the capacity of Member States to fully implement the Security Council's sanctions regime against Al-Qaida and associated individuals and entities, the Committee encourages the Monitoring Team to further enhance its role in this regard, including through cooperation with the Counter-Terrorism Committee Executive Directorate, which serves as a system integrator for capacity-building initiatives within the Council's sanctions framework.

11. **On the Ombudsperson:** The Committee has adapted its procedures to reflect the enhanced mandate of the Ombudsperson introduced in resolution 1989 (2011)

and remains open to further improvements to the fairness and transparency of this process. In this context, the Committee recalls the need for close cooperation between the Ombudsperson and Member States, especially in the area of information-sharing, and reiterates the importance of reaching confidentiality agreements. The Committee will carry on its work with the Ombudsperson to ensure that the process continues to work effectively.

12. **Further on the Ombudsperson:** The Committee notes that the implementation of this recommendation would require the Security Council to amend the Ombudsperson's mandate. It also notes that the mandate of the Ombudsperson provides a recourse mechanism for petitioners. The Committee underscores the value of consensus-based decisions, in particular in the field of counter-terrorism. It remains ready to examine further suggestions, including from the Monitoring Team, on improving the effectiveness of delisting processes, in accordance with its mandate.

13. **On reviews:** The Committee notes the recommendation of the Monitoring Team to draw attention to the provisions of paragraphs 27 and 28 of resolution 1989 (2011) when writing to designating States in the context of the reviews of the Al-Qaida Sanctions List. This reflects the practice already adopted by the Committee.

14. **On the recommendation for a new format of the List:** The Committee highlights the recommendation made by the Monitoring Team to continue to work towards adopting a uniform format of sanctions lists throughout all United Nations sanctions regimes in the interest of enhancing implementation through greater coherence and consistency. This position was already expressed in the Committee's position paper on the recommendations contained in the eleventh report of the Analytical Support and Sanctions Monitoring Team (S/2011/728, annex). The Committee looks forward to further steps to be taken by the Secretariat and the Monitoring Team in this regard.

V. Assets freeze

15. **On informal financing and the non-profit sector:** The Committee notes the challenges regarding informal financing and the charitable or not-for-profit sector, and welcomes the Monitoring Team's activities in this regard. The Committee considers this issue to be particularly relevant to implementation of the assets freeze under the Al-Qaida sanctions regime and is looking forward to further recommendations, including from the Monitoring Team, in this regard. The Committee underlines the fact that these efforts should be coordinated with other relevant United Nations entities, in particular the Counter-Terrorism Committee and the Counter-Terrorism Committee Executive Directorate.

16. **On exemptions:** The Committee remains committed to ensuring that the exemptions procedures set out in resolution 1452 (2002) are used effectively and notes in this context that the Security Council has requested the Monitoring Team to review the Committee's procedures for granting exemptions pursuant to resolution 1452 (2002), and to provide recommendations for how the Committee can improve the process for granting such exemptions (see resolution 1989 (2011), para. 57). The Committee looks forward to receiving more detailed proposals from the Monitoring Team in this regard.

VI. Arms embargo

17. **On improving the political commitment to implementation:** In line with the mandate of the Monitoring Team, the Committee looks forward to further reports from the Monitoring Team related to non-implementation of the measures set out in paragraph 1 of resolution 1989 (2011), including paragraph 1 (c) concerning the arms embargo.